

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SUZANNE DEGNEN, D.M.D., P.C. d/b/a)
SUNSET TOWER FAMILY DENTISTRY,)
vs.)
Plaintiff,)
vs.) Case No. 4:15-cv-1631
KOMET USA, LLC, and JOHN DOES 1-10,) **JURY TRIAL DEMANDED**
Defendants.)

NOTICE OF REMOVAL

Defendant Komet USA, LLC hereby removes this action from the Missouri Circuit Court for the Eleventh Judicial Circuit, County of St. Charles, to this Court pursuant to 28 U.S.C. §§ 1331, 1367(a), 1441(a), and 1446(a). Removal is proper because this putative class action arises under the laws of the United States, pursuant to 28 U.S.C. § 1331.

I. INTRODUCTION

On September 10, 2015, Plaintiff Suzanne Degnen, D.M.D., P.C., d/b/a Sunset Tower Family Dentistry, commenced a putative class action in the Missouri Circuit Court for the Eleventh Judicial Circuit, County of St. Charles, entitled *Suzanne Degnen, D.M.D., P.C., d/b/a Sunset Tower Family Dentistry v. Komet USA, LLC, and John Does 1-10*, Case No. 1511-CC00766 (“State Court Action”). Plaintiff seeks damages under the Telephone Consumer Protection Act of 1991, as amended by the Junk Fax Prevention Act of 2005, 47 U.S.C. § 227.

Under 28 U.S.C. § 1446(a) and Local Rule 2.03, true and correct copies of all process, pleadings, orders, and other documents served upon Komet and on file in the State Court Action are attached to this Notice as Exhibit A.

II. REMOVAL IS PROPER BECAUSE THERE IS A FEDERAL QUESTION

The Court has original jurisdiction because this action arises under federal law. *See* 28 U.S.C. § 1331. Plaintiff seeks relief under a federal statute, the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227. Specifically, Plaintiff alleges that Komet transmitted facsimile advertisements in violation of the TCPA. (Compl. ¶ 45.) Federal courts have § 1331 jurisdiction over claims arising under the TCPA. *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 753 (2012). Thus, removal is appropriate based on federal-question jurisdiction.

IV. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

A. This Notice of Removal is Timely Filed

Komet was served with the Complaint on September 29, 2015. This notice of removal is timely under 28 U.S.C. §§ 1446(b) and 1453(b) because it is filed within thirty days after Komet was served.

B. Venue is Proper

The Missouri Circuit Court for the Eleventh Judicial Circuit, County of St. Charles, is located within the Eastern District of Missouri. 28 U.S.C. § 105(a)(1). This Notice of Removal is therefore properly filed in this Court under 28 U.S.C. §§ 1441(a), 1446(a) and 1453(b).

C. Notice of Filing

Under 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Circuit Clerk for the Eleventh Judicial Circuit Court, St. Charles County, Missouri, and served on counsel for Plaintiff.

V. CONCLUSION

For the reasons stated, federal question jurisdiction exists pursuant to 28 U.S.C. § 1331, and this action is removable to this Court under 28 U.S.C. §§ 1441(a) and 1453.

This 28th day of October, 2015.

FOX GALVIN, LLC

By: /s/ John E. Galvin

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served by e-filing through the Missouri Electronic Filing System and sent by U.S. mail this 28th day of October, 2015 to:

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/s/ John E. Galvin
